IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.4326 OF 2006

Nivrutti Rama Bhise .. Applicant

Versus

State of Maharashtra .. Respondent

Mr.Madhav Jamdar for applicant

Mr.Rajesh More, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 11th December 2006.

P.C.

. Applicant has been arrested in connection with C.R.No.1143 of 2005 for offences punishable under sections 302, 445, 452, 323, 504, 506(2),

324 read with 34 I.P.C. and offences alleged under the Bombay Police Act.

2. Applicant has been arrested pursuant to the complaint lodged by one Anil Shilimkar. Complainant alleges that his cousin sister Poonam was residing alone and the applicant was residing in the vicinity of her residence. Grievance of the applicant and his wife was that the deceased Poonam was running a brothel/prostitution racket at her residence. She was creating nuisance for the applicant and his family members. Complaint was lodged by the wife of applicant with the police authorities about acts of deceased. However, on the relevant date, it is alleged that applicant and his wife assaulted the deceased with sickle. The complainant was also present so also other witnesses. Applicant was arrested on 29th December 2005.

3. Applicant applied for bail which was

rejected by the trial court on 9th May 2006. This was rejection on merits. Second application was filed some time in August and the same has been rejected on 23rd August 2006.

4. In the meanwhile, the applicant lost his mother and was granted bail on humanitarian grounds to perform last rites.

5. Mr.Jamdar submits that there are inconsistencies between the version of the prosecution and that of other persons, whose statements have been recorded. He submits that as far as recovery is concerned, applicant's statement has been recorded by Swargate police station whereas panchas say that Bopodi police station was involved. He submits that deceased was a lady of loose moral character and was a prostitute. She was creating nuisance and no complaint was being registered pertaining to her acts and misdeeds and that is how the incident

occured. Applicant has a wife and minor children to support and there is no apprehension that liberty would be misused by him.

6. The Courts below have noted that the weapon has been recovered at the instance of applicant. There are eye witnesses who have seen the applicant assaulting the deceased. Principle of parity cannot be extended to the applicant. The court below has also taken note of the external injuries on the person of the deceased. Considering the gravity of the offence and the punishment prescribed for the same in law, so also the assault being on woman residing alone, the application has been rejected by the trial court.

7. I see no reason to take a different view on the merits at this prima facie stage. Evidentiary value of the materials collected cannot be gone into at this stage in any details.

From the statement of the complainant, it appears that the assault took place on the relevant date. The applicant was very much part of the same because of the complaints lodged earlier by his wife and him. In such circumstances, this is not a case to enlarge the applicant on bail. Application dismissed.

(S.C.Dharmadhikari, J)